

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Attorneys for the United States

UNITED STATES OF AMERICA

V.

CHARLES ROCK,

Defendant.

PLEA AGREEMENT

No. CR 14-00607 PJH

RIGHTS OF DEFENDANT

- PLEA AGREEMENT – CHARLES ROCK – 1
No. CR 14-00607 PJH

1 (c) to have a trial by jury, at which he would be presumed not guilty of the
 2 charge and the United States would have to prove every essential element of the charged offense
 3 beyond a reasonable doubt for him to be found guilty;

4 (d) to confront and cross-examine witnesses against him and to subpoena
 5 witnesses in his defense at trial;

6 (e) not to be compelled to incriminate himself;

7 (f) to appeal his conviction, if he is found guilty; and

8 (g) to appeal the imposition of sentence against him.

9 AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

10 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph
 11 1(b)-(f), above. The defendant also knowingly and voluntarily waives the right to file any
 12 appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal
 13 under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2241 or § 2255, that challenges the
 14 sentence imposed by the Court if that sentence is consistent with or below the United States
 15 Sentencing Guidelines range stipulated by the parties in Paragraph 9 of this Plea Agreement,
 16 regardless of how the sentence is determined by the Court. This Agreement does not affect the
 17 rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). Nothing in this
 18 paragraph, however, shall act as a bar to the defendant perfecting any legal remedies he may
 19 otherwise have on appeal or collateral attack respecting claims of ineffective assistance of
 20 counsel or prosecutorial misconduct. The indictment in this case charges the defendant with one
 21 count of participating in a conspiracy to suppress and restrain competition by rigging bids to
 22 obtain selected properties offered at public real estate foreclosure auctions in Contra Costa
 23 County, in the Northern District of California (“the Contra Costa County selected properties”), in
 24 unreasonable restraint of interstate trade and commerce, in violation of the Sherman Act, 15
 25 U.S.C. § 1, beginning as early as June 2008 and continuing until in or about January 2011
 26 (“relevant period”), and with two counts of mail fraud in violation of 18 U.S.C. § 1341, in Contra
 27 Costa County, California, during the relevant period.

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1 3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to
2 the criminal charges described in Paragraph 2 above and will make a factual admission of guilt to
3 the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4 below.

4 FACTUAL BASIS FOR CHARGED OFFENSES

5 4. The defendant agrees that he is guilty of the offenses to which he will plead guilty
6 and agrees that the following facts are true:

7 (a) As to Count One of the Indictment:

8 During the relevant period, the defendant participated in a conspiracy to rig bids to obtain
9 the Contra Costa County selected properties. The primary purpose of this conspiracy was to
10 suppress and restrain competition to purchase the Contra Costa County selected properties at
11 non-competitive prices. To carry out their conspiracy, the defendant and his co-conspirators
12 agreed not to compete to purchase the Contra Costa County selected properties, designated
13 which conspirator would win the Contra Costa County selected properties at the public auctions
14 for the group of conspirators, and refrained from or stopped bidding on the Contra Costa County
15 selected properties at the public auctions.

16 During the relevant period, the business activities of the defendant and his
17 co-conspirators were within the flow of, and substantially affected, interstate trade and
18 commerce. For example, mortgage holders located in states other than California received
19 proceeds from the public real estate foreclosure auctions that were subject to the bid-rigging
20 conspiracy.

21 During the relevant period, the conspiratorial activities described above took place in the
22 Northern District of California, and the real estate that was the subject of this conspiracy was
23 located in this District.

24 (b) As to Counts Three and Four of the Indictment:

25 During the relevant period, the defendant and his co-schemers did knowingly and
26 with intent to defraud, devise and participate in a scheme and artifice to defraud beneficiaries,
27 and to obtain money and property from beneficiaries by means of materially false and fraudulent
28 pretenses, representations, and promises, and for purposes of executing such scheme, did use

1 and knowingly cause to be used the United States mail and private or commercial interstate
2 carriers.

3 The purpose of the scheme was to fraudulently acquire title to hundreds of selected
4 properties sold at public auctions in Contra Costa County and to divert to co-schemers money
5 that would have gone to beneficiaries. Among other things, the defendant and his co-schemers
6 executed a deceptive scheme by holding second, private auctions, known as "rounds," to
7 determine payoff amounts and the schemers who would be awarded the selected properties;
8 making and causing to be made materially false and misleading statements that trustees relied
9 upon to distribute proceeds to beneficiaries and to convey title to selected properties; paying co-
10 schemers monies that otherwise would have gone to beneficiaries; concealing rounds and payoffs
11 from trustees and beneficiaries; and causing the suppressed purchase prices to be reported and
12 paid to beneficiaries.

13 In order to execute the scheme and artifice to defraud, the defendants and co-schemers
14 knowingly used and caused to be used the United States Postal Service and private or
15 commercial interstate carriers. For example, trustees used the United States mail and private or
16 commercial interstate carriers to transmit Trustee's Deeds Upon Sale and other title documents
17 to participants in the conspiracy. These mailings were foreseeable to the defendant in the
18 ordinary course of business.

19 On or about the dates specified as to each Count set forth below, the defendant and co-
20 schemers did knowingly cause to be delivered by United States mail and private or commercial
21 carriers, including the United States Postal Service, United Parcel Service, and FedEx, the items
22 identified in each Count below:

Count	Approx. Date	To	From	Description
3	12/22/2009	22538 Mission Blvd., Hayward, California	California Reconveyance Company	Trustee's Deed Upon Sale for 2472 Millstream Lane, San Ramon, California
4	04/07/2010	3939 Woodside Ct., Lafayette, California	Recon Trust	Trustee's Deed Upon Sale for 19 Heritage Oaks Road, Pleasant Hill, California

1 During the relevant period, the real estate that was the subject of this conspiracy was
2 located in the Northern District of California.

3 POSSIBLE MAXIMUM SENTENCE

4 5. The defendant understands that the statutory maximum penalty that may be
5 imposed against him upon conviction for a violation of Count One, 15 U.S.C. § 1, is:

6 (a) a term of imprisonment for ten years (15 U.S.C. § 1);
7 (b) a fine in an amount equal to the greatest of (1) \$1 million, (2) twice the
8 gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross pecuniary
9 loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b)
10 and (d)); and

11 (c) a term of supervised release of not more than three years following any
12 term of imprisonment. If the defendant violates any condition of supervised release, the
13 defendant could be required to serve up to an additional two years in prison (18 U.S.C.
14 § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines
15 (“U.S.S.G.,” “Sentencing Guidelines,” or “Guidelines”) §5D1.2(a)(2)).

16 6. The defendant understands that the statutory maximum penalty that may be
17 imposed against him upon conviction for a violation of Counts Three and Four, 18 U.S.C.
18 § 1341, is:

19 (a) a term of imprisonment for twenty years (18 U.S.C. § 1341);
20 (b) a fine of not more than \$250,000; and
21 (c) a term of supervised release of not more than five years following any
22 term of imprisonment. If the defendant violates any condition of supervised release, the
23 defendant could be required to serve up to an additional three years in prison (18 U.S.C.
24 § 3559(a)(2); 18 U.S.C. § 3583(b)(1) and (e)(3); and U.S.S.G. §5D1.2(a)(1)).

25 7. In addition, the defendant understands that:

26 (a) pursuant to U.S.S.G. §5E1.1 or 18 U.S.C. § 3663(a)(3), the Court may
27 order him to pay restitution to the victims of the offense; and

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(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a \$100 special assessment upon conviction for each charged crime, totaling \$300.

SENTENCING GUIDELINES

8. The defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing sentence. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance-of-the-evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable, based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a). Pursuant to U.S.S.G. §1B1.8, the United States agrees that self-incriminating information that the defendant provides to the United States pursuant to this Plea Agreement will not be used to increase the volume of affected commerce or loss attributable to the defendant or in determining the defendant's applicable Guidelines range, except to the extent provided in U.S.S.G. §1B1.8(b).

SENTENCING AGREEMENT

9. The United States and the defendant agree that the following Sentencing Guidelines apply:

(a) Count One (15 U.S.C. § 1):

i.	Base Offense Level, U.S.S.G. §2R1.1(a):	12
ii.	Conduct involved agreement to submit non-competitive bids, U.S.S.G. §2R1.1(b)(1):	+1
iii.	Volume of Commerce, U.S.S.G. §2R1.1(b)(2)(A):	+2
	Total:	15
	Fine calculated as one to five percent of the volume of commerce, but not less than \$20,000, U.S.S.G. §2R1.1(c)(1):	\$20,000 to \$99,350

(b) Counts Three and Four (18 U.S.C. § 1341):

i.	Base Offense Level, U.S.S.G. §2B1.1(a)(1):	7
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ii.	Loss > \$120,000, U.S.S.G. §2B1.1(b)(1)(F):	+10
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Total:		17
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Fine, U.S.S.G. §5E1.2(c)(3):		\$5,000 to \$50,000
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Count One groups with Counts Three and Four under U.S.S.G. §3D1.2(b). According to U.S.S.G. §3D1.3(a), the combined offense level is the highest offense level between these two subgroups. Therefore, the offense level to be applied is the offense level for the subgroup consisting of Counts Three and Four, which results in a combined offense level of 17.

10. The United States agrees that it will make a motion, pursuant to U.S.S.G. §3E1.1, for a downward adjustment of three levels for acceptance of responsibility due to the defendant's timely notification of his intention to enter a guilty plea. Therefore, the ultimate Guidelines calculations result in an adjusted offense level of 14, for a jail term of 15 to 21 months and a fine of \$4,000 to \$40,000.

11. The defendant understands that the Court will order him to pay a special assessment of \$100 per count (\$300 total) pursuant to 18 U.S.C. § 3013(a)(2)(A) in addition to any fine imposed. The parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the U.S. Sentencing Commission in formulating the Sentencing Guidelines justifying a departure pursuant to U.S.S.G. §5K2.0.

12. The Mandatory Victim Restitution Act requires the Court to order restitution to the victims of certain offenses. The government and the defendant agree to recommend that the Court order the defendant to pay restitution in the amount of \$12,084 pursuant to U.S.S.G. §5E1.1(a). The defendant understands that this Plea Agreement is voidable by the government if he fails to pay the restitution as ordered by the Court. The defendant further agrees that he will not seek to discharge any restitution obligation or any part of such obligation in any bankruptcy proceeding.

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1 13. The United States and the defendant are not aware of any information that would
2 affect the defendant's Criminal History Category. If no other information were discovered, the
3 defendant's Criminal History Category would be I. The parties understand that the defendant's
4 Criminal History Category is determined by the Court.

5 14. The defendant understands that the sentence to be imposed on him is within the
6 sole discretion of the sentencing judge. The United States cannot and does not make any
7 promises or representations as to what sentence the defendant will receive. However, the United
8 States will inform the Probation Office and the Court of (a) this Agreement; (b) the nature and
9 extent of the defendant's activities in this case and all other activities of the defendant that the
10 United States deems relevant to sentencing; and (c) the nature and extent of the defendant's
11 cooperation with the United States. In so doing, the United States may use any information it
12 deems relevant, including information provided by the defendant both prior and subsequent to
13 the signing of this Agreement. The United States reserves the right to make any statement to the
14 Court or the Probation Office concerning the nature of the criminal violations charged in the
15 Indictment, the participation of the defendant therein, and any other facts or circumstances that it
16 deems relevant. The United States also reserves the right to comment on or to correct any
17 representation made by or on behalf of the defendant and to supply any other information that the
18 Court may require.

19 15. If the United States determines that the defendant has provided substantial
20 assistance in any Federal Proceeding, as defined in Paragraph 18 of this Plea Agreement, and has
21 otherwise fully complied with all of the terms of this Plea Agreement, it will file a motion,
22 pursuant to U.S.S.G. §5K1.1, advising the sentencing judge of all relevant facts pertaining to that
23 determination and requesting the Court to sentence the defendant in light of the factors set forth
24 in U.S.S.G. §5K1.1(a)(1)-(5). The defendant acknowledges that the decision whether he has
25 provided substantial assistance in any Federal Proceeding and has otherwise complied with the
26 terms of this Plea Agreement is within the sole discretion of the United States. It is understood
27 that, should the United States determine that the defendant has not provided substantial
28 assistance in any Federal Proceeding, or should the United States determine that the defendant

1 has violated any provision of this Plea Agreement, such a determination will release the United
2 States from any obligation to file a motion pursuant to U.S.S.G. §5K1.1, but will not entitle the
3 defendant to withdraw his guilty plea once it has been entered. The defendant further
4 understands that, whether or not the United States files a motion pursuant to U.S.S.G. §5K1.1,
5 the sentence to be imposed on him remains within the sole discretion of the sentencing judge.

6 16. Subject to the ongoing, full, and truthful cooperation of the defendant described in
7 Paragraph 18 of this Plea Agreement, and before sentencing in the case, the United States will
8 fully advise the Court and the Probation Office of the fact, manner, and extent of the defendant's
9 cooperation and his commitment to prospective cooperation with the United States' investigation
10 and prosecutions, all material facts relating to the defendant's involvement in the charged
11 offenses, and all other relevant conduct. To enable the Court to have the benefit of all relevant
12 sentencing information, the United States may request, and the defendant will not oppose, that
13 sentencing be postponed until his cooperation is complete.

14 17. The United States and the defendant understand that the Court retains complete
15 discretion to accept or reject either party's sentencing recommendation. The defendant
16 understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a
17 sentence consistent with either party's sentencing recommendation, he nevertheless has no right
18 to withdraw his plea of guilty.

19 DEFENDANT'S COOPERATION

20 18. The defendant will cooperate fully and truthfully with the United States in the
21 prosecution of this case, the conduct of the current federal investigation of violations of federal
22 antitrust and related criminal laws involving the purchase of properties at public real estate
23 foreclosure auctions in the Northern District of California, any other federal investigation
24 resulting therefrom, and any litigation or other proceedings arising or resulting from any such
25 investigation to which the United States is a party ("Federal Proceeding"). The ongoing, full,
26 and truthful cooperation of the defendant shall include, but not be limited to:

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1 (a) producing all non-privileged documents, including claimed personal
2 documents, and other materials, wherever located, in the possession, custody, or control of the
3 defendant, requested by attorneys and agents of the United States;

4 (b) making himself available for interviews, not at the expense of the United
5 States, upon the request of attorneys and agents of the United States;

6 (c) responding fully and truthfully to all inquiries of the United States in
7 connection with any Federal Proceeding, without falsely implicating any person or intentionally
8 withholding any information, subject to the penalties of making false statements (18 U.S.C.
9 § 1001) and obstruction of justice (18 U.S.C. § 1503, *et seq.*);

10 (d) otherwise voluntarily providing the United States with any non-privileged
11 material or information, not requested in (a)-(c) of this paragraph, that he may have that is related
12 to any Federal Proceeding; and

13 (e) when called upon to do so by the United States in connection with any
14 Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully,
15 and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or
16 declarations in grand jury or court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C.
17 §§ 401-402), and obstruction of justice (18 U.S.C. § 1503, *et seq.*).

18 GOVERNMENT'S AGREEMENT

19 19. Subject to the full, truthful, and continuing cooperation of the defendant described
20 in Paragraph 18 of this Plea Agreement, and upon the Court's acceptance of the guilty plea
21 called for by this Plea Agreement and the imposition of sentence, the United States will not bring
22 further criminal charges against the defendant for any act or offense committed before the date of
23 this Plea Agreement that was undertaken in furtherance of an antitrust conspiracy or in violation
24 of any related criminal law involving the purchase of properties at public real estate foreclosure
25 auctions in the Northern District of California ("Relevant Offenses"). The non-prosecution
26 terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal
27 tax or securities laws, or to any crime of violence.

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1 20. The defendant understands that he may be subject to administrative action by
2 federal or state agencies other than the United States Department of Justice, Antitrust Division,
3 based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in
4 no way controls whatever action, if any, other agencies may take. However, the United States
5 agrees that, if requested, it will advise the appropriate officials of any governmental agency
6 considering such administrative action of the fact, manner, and extent of the cooperation of the
7 defendant as a matter for that agency to consider before determining what administrative action,
8 if any, to take.

9 REPRESENTATION BY COUNSEL

10 21. The defendant has reviewed all legal and factual aspects of this case with his
11 attorney and is fully satisfied with his attorney's legal representation. The defendant has
12 thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory
13 explanations from his attorney concerning each paragraph of this Plea Agreement and
14 alternatives available to the defendant other than entering into this Plea Agreement. After
15 conferring with his attorney and considering all available alternatives, the defendant has made a
16 knowing and voluntary decision to enter into this Plea Agreement.

17 VOLUNTARY PLEA

18 22. The defendant's decision to enter into this Plea Agreement and to tender a plea of
19 guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises,
20 or representations other than the representations contained in this Plea Agreement. The United
21 States has made no promises or representations to the defendant as to whether the Court will
22 accept or reject the recommendations contained within this Plea Agreement.

23 VIOLATION OF PLEA AGREEMENT

24 23. The defendant agrees that, should the United States determine in good faith,
25 during the period that any Federal Proceeding is pending, that the defendant has failed to provide
26 full and truthful cooperation, as described in Paragraph 18 of this Plea Agreement, or has
27 otherwise violated any provision of this Plea Agreement, the United States will notify the
28 defendant or his counsel in writing by personal or overnight delivery or facsimile transmission,

1 and may also notify his counsel by telephone, of its intention to void any of its obligations under
2 this Plea Agreement (except its obligations under this paragraph), and the defendant shall be
3 subject to prosecution for any federal crime of which the United States has knowledge, including
4 but not limited to, the substantive offenses relating to the investigation resulting in this Plea
5 Agreement. The defendant may seek Court review of any determination made by the United
6 States under this paragraph to void any of its obligations under the Plea Agreement. The
7 defendant agrees that, in the event that the United States is released from its obligations under
8 this Plea Agreement and brings criminal charges against the defendant for any Relevant
9 Offenses, the statute of limitations period for such offense shall be tolled for the period between
10 the date of the signing of this Plea Agreement and six months after the date the United States
11 gave notice of its intent to void its obligations under this Plea Agreement.

12 24. The defendant understands and agrees that in any further prosecution of him
13 resulting from the release of the United States from its obligations under this Plea Agreement
14 based on the defendant's violation of the Plea Agreement, any documents, statements,
15 information, testimony, or evidence provided by him to attorneys or agents of the United States,
16 federal grand juries, or courts, and any leads derived therefrom, may be used against him in any
17 such further prosecution. In addition, the defendant unconditionally waives his right to challenge
18 the use of such evidence in any such further prosecution, notwithstanding the protections of Fed.
19 R. Evid. 410.

20 ENTIRETY OF AGREEMENT

21 25. This Plea Agreement constitutes the entire agreement between the United States
22 and the defendant concerning the disposition of the criminal charges in this case. This Plea
23 Agreement cannot be modified except in writing, signed by the United States and the defendant.

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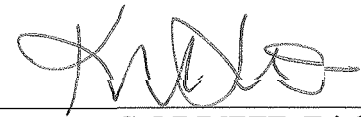
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26. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.




CHARLES ROCK
Defendant

Dated: 12/24/2014



KELSEY C. LINNETT, Trial Attorney
E. KATE PATCHEN, Assistant Chief
MICAH L. WYATT, Trial Attorney
United States Department of Justice
Antitrust Division



DEBORAH LEVINE
Counsel for Defendant Charles Rock

Dated: 12/24/2014

Dated: Dec. 24, 2014